

## **HAITI 2013 HUMAN RIGHTS REPORT**

### **EXECUTIVE SUMMARY**

Haiti is a constitutional republic with a multi-party political system. President Michel Martelly took office in May 2011 following a two-round electoral process that, despite some allegations of fraud and irregularities, international observers deemed generally free and fair. The government did not hold partial Senate and local elections, delayed since October 2011, because of a continuing impasse between the executive, legislative, and judicial branches over the proper procedures to establish and promulgate an elections law and to organize elections. Authorities maintained effective control over the security forces, but allegations persisted that at times law enforcement personnel committed human rights abuses.

The most serious impediments to human rights involved weak democratic governance in the country; insufficient respect for the rule of law, exacerbated by a deficient judicial system; and chronic corruption in all branches of government.

Basic human rights problems included: isolated allegations of arbitrary and unlawful killings by government officials; allegations of use of force against suspects and protesters; overcrowding and poor sanitation in prisons; prolonged pretrial detention; an inefficient, unreliable, and inconsistent judiciary; rape, other violence, and societal discrimination against women; child abuse; allegations of social marginalization of vulnerable populations, including persons with disabilities and lesbian, gay, bisexual, and transgender (LGBT) persons; and trafficking in persons. Allegations persisted of sexual exploitation and abuse by members of the UN Peacekeeping Force in Haiti (MINUSTAH). Violence, crime, and forced evictions within the remaining internally displaced persons (IDP) camps, which contained approximately 172,000 IDPs as of November, remained a problem.

Although the government took some steps to prosecute or punish government and law enforcement officials accused of committing abuses, credible reports persisted of officials engaging in corrupt practices, and civil society groups' alleged that impunity was a problem.

#### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

##### **a. Arbitrary or Unlawful Deprivation of Life**

There were isolated allegations of police and other government officials' involvement in arbitrary or unlawful killings. Some of these resulted in arrests; however, none resulted in convictions.

The law requires that authorities refer to the Haitian National Police (HNP) Office of the Inspector General (OIG) all cases involving allegations of HNP criminal misconduct. Despite installing a full cadre of six inspectors during the year, the past shortage of investigators and expertise impeded cases from being investigated or closed in a timely manner. Senior HNP officials acknowledged receipt of several complaints alleging abuses committed by HNP officers during the year, but noted that financial, staffing, and training limitations prevented the institution from readily addressing all reports of such misconduct.

In February a Cite Soleil mayoral private security official, Marcel Fleurissant, allegedly killed resident Fenol Preval. Authorities issued two arrest orders against Fleurissant and accomplice Dieuly Louna, and Cite Soleil Mayor Jean Louis Barret said that the city would cover the costs of Preval's funeral expenses. As of December, neither Fleurissant nor Louna had been arrested.

HNP officers also were implicated allegedly in other arbitrary killings of civilians. In April Port-au-Prince IDP Camp Accra resident Civil Merius died while in police custody after an alleged beating by HNP officers during his arrest, which, according to international NGOs, occurred after a night of protests. HNP Inspector Jean-Faustin Salomon alleged Merius took part in the demonstrations and that other protest participants killed him (see section 2. d). Witnesses suggested that Merius – whose body reportedly was bruised severely upon arrival at the police station – was taking out his trash when HNP officers stormed the early morning protest and forcefully took him into custody. In late May the lawyer for Merius and another victim from the demonstration reportedly received threats because they publicly spoke about the April incident. As of September there were no further investigations.

Following the death of Port-au-Prince Civil Court investigating magistrate Jean Serge Joseph on July 13 (see section 4), security forces injured or killed several residents of L'Estere during a protest on July 17. Authorities deployed both MINUSTAH and HNP forces to restore order after protesters erected barricades to block one of the country's main highways. While MINUSTAH officials present at the scene claimed MINUSTAH personnel only fired rubber bullets during the demonstration, media reports suggested that live rounds injured seven individuals. Among the victims, 24-year-old Rolcy Ametis died on July 19 due to three gunshot

wounds, and a three-month-old child died of asphyxiation allegedly caused by inhaling tear gas. As of September authorities had not investigated the alleged role played by HNP officers.

In September, authorities arrested former HNP police chief Vanel Lacroix, who was implicated in the torture and murder of Serge Demosthene. Demosthene was being held in custody at the Petionville police station under Lacroix's authority in 2011.

There were no developments in the case of the February 2012 shooting of Mary Sony Dorestant by Substitute Justice of the Peace for Chantal, Barthelemy Vaval.

In late 2012 Port-au-Prince First Instance Court Judge Wilner Morin launched an investigation into the April 2012 killing of HNP traffic unit officer Walky Calixte. In the course of the investigation, gunmen killed two HNP officers serving as witnesses in the case – Marcellin Jevousaime and Jean Richard Ernest Cayo – in March and May 2013, respectively, before they could provide testimony to Judge Morin. On March 19, Morin officially requested that the Chamber of Deputies, one of the two parliamentary houses, suspend the parliamentary immunity of two sitting deputies – Rodriguez Sejour and M'Zou Naya Belange Jean Baptiste – whose testimony Judge Morin deemed critical to advancing the investigation. The Chamber of Deputies leadership convened an ad-hoc special commission to investigate the judge's request and provide formal recommendations to the full chamber. On June 18, citing a lack of evidence, the commission recommended that the Chamber not lift Deputies Sejour's and Jean Baptiste's parliamentary immunity, a recommendation the lower house unanimously passed on August 27.

In March the Supreme Judicial Council (CSPJ) reinstated Judge Fermo-Judes Paul, who the CSPJ earlier suspended from duty in December 2012 after he ordered the release of National Palace advisor Mercidieu Valentin Calixte, the principal suspect in the April 2012 murder of Fond Parisien resident Octanol Derissant. Human rights and civil society organizations condemned Judes-Paul's reinstatement, claiming that it violated judicial oversight norms.

### **b. Disappearance**

There were no reports of politically motivated disappearances by government agents during the year. The 2011 case of the politically motivated kidnapping of one of three poster hangers working for the Mirlande Manigat presidential campaign remained unsolved.

Allegations of current and former HNP officers' alleged involvement in kidnappings persisted. Nevertheless, kidnappings decreased during the year. Through November police recorded 82 kidnappings, compared with 126 in 2012. International and domestic authorities credited the decline to the increasing effectiveness of the HNP's anti-kidnapping unit.

In July the Court of Appeals dismissed the pending charges against six HNP officers imprisoned for their involvement in a kidnapping ring dismantled following the October 2012 arrest of prominent businessperson Clifford Brandt. Minister of Justice Jean Renel Sanon intervened to ensure that the Supreme Court reviewed the appellate court's decision before releasing the officers. As of October the suspects remained incarcerated pending higher court review.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The law prohibits such practices; however, there were several reports from international and domestic NGOs that members of the HNP allegedly beat or otherwise abused detainees and suspects. Prisoners at times were subject to degrading treatment, in large part due to overcrowded facilities. Several reports noted corrections officers using physical punishment and psychological abuse to mistreat prisoners.

In January HNP Mobile Intervention Brigade and Departmental Order Maintenance Unit (UDMO) officers arrested and allegedly beat a 25-year-old Cite Soleil resident for "criminal conspiracy." MINUSTAH officials verified the victim's injuries and requested his transfer to a hospital for care. In February MINUSTAH also reported meeting with a different inmate at the Mirebalais prison who claimed UDMO officials beat him with a wooden stick during his arrest.

During the February Carnival in Cap Haitien, NGOs reported that agents of the National Palace Security Unit beat two journalists working for Radio RFM (see section 2.a.). Authorities indicated an investigation would be launched but by the end of the year the status of the investigation remained unresolved.

In separate incidents two individuals – a journalist from Marigot and a literature teacher from Bainet – claimed that associates of their deputies in parliament beat them. The journalist claimed the beating resulted from an allegation he made during a radio show that the deputy from Marigot had misappropriated funds. The

teacher from Bainet alleged that HNP officers watched while the bodyguard for the Bainet deputy assaulted him.

Allegations persisted that MINUSTAH soldiers were involved in incidents of sexual abuse and exploitation. As a mandated UN peacekeeping mission, MINUSTAH has an official “zero tolerance” policy regarding sexual exploitation. By September, however, the New York-based UN Conduct and Discipline Unit had received 13 allegations of MINUSTAH sexual exploitation and abuse. Citizens filed six accusations against MINUSTAH military members, four against MINUSTAH police, and three against civilians working for MINUSTAH. In September local media reported that a member of the Sri Lankan military contingent based in Leogane sexually assaulted an 18-year-old Haitian woman. Both MINUSTAH and the local prosecutor’s office opened an investigation into the allegation. Media outlets reported that a Sri Lankan military court found the individual guilty and that he has since departed the country.

### **Prison and Detention Center Conditions**

Prisons and detention centers throughout the country remained overcrowded, poorly maintained, and unsanitary.

Physical Conditions: Following the destruction of numerous correctional facilities in the 2010 earthquake, prison and detention center overcrowding was severe, especially in the National Penitentiary, the Petionville women’s prison, the Petit-Goave jail, and the prisons in Jeremie, Les Cayes, Port de Paix, and Hinche. Only the newly constructed prison in Croix des Bouquets conformed to international norms and was not significantly overcrowded. Others, including the detention facilities in Cap Haitien, Fort Liberte, Gonaives, Petionville, and Port de Paix all held more than four times their maximum number of inmates. In some prisons detainees slept in shifts due to lack of space. Some prisons had no beds for detainees, and some cells had no access to sunlight. In others, cells often were open to the elements and lacked adequate ventilation. Many prison facilities lacked basic services such as plumbing, sanitation, waste disposal, medical services, potable water, electricity, and isolation units for contagious patients. Prisons generally used well water as a source for drinking and bath water. A newly operational sanitation block in the Les Cayes prison contained nine showers and 10 toilets serving a population of 572 inmates. Some prison officials used chlorine to sanitize drinking water, but in general, prisoners did not have access to treated drinking water.

UN observers indicated in 2012 that approximately 70 percent of prisoners and detainees suffered from a lack of basic hygiene, malnutrition, poor quality health care, and water-borne illness. In several prisons the Department of Corrections (DAP) and the International Committee of the Red Cross (ICRC) provided personal hygiene kits; in many others, inmates' families provided them. Human rights groups reported that prison authorities did not allow prisoners to shower prior to appearing before a tribunal for their court hearings. Because of the poor security, severe understaffing, and conditions of some detention centers, some prisons did not allow prisoners out of their cells for exercise. One human rights organization claimed a majority of the 37 inmate deaths that occurred through October resulted from a lack of adequate medical and sanitation services.

While some detention facilities contained clinics for treatment of illnesses and diseases contracted while in custody, many did not. Few prisons had the resources to treat serious medical situations. In some prisons the incidence of HIV/AIDS, malaria, and drug-resistant tuberculosis remained a serious problem, although the programs of several NGOs, international organizations, and donor countries continued to reduce the incidence of these diseases. Other common medical problems in prisons included scabies and beriberi.

Prison conditions generally varied by inmate gender. Female inmates in coed prisons enjoyed proportionately more space in their cells than their male counterparts, but women at the Petionville women's prison, like men at mixed-gender prison facilities, still occupied less than 11 square feet of cell space per person. Female prisoners also enjoyed a better quality of life than did their male counterparts due to their smaller numbers, which wardens suggested was a contributing factor to their ease of control. Access to water and adequate plumbing was still a problem at the women's prison, which had no flushing toilets, and where one pit latrine served 296 inmates.

The DAP, which is part of the HNP, estimated that there were approximately 10,400 prisoners in the country's jails as of October. The DAP also held prisoners in makeshift and unofficial detention centers, such as the police stations in Petit-Goave, Miragoane, Gonaives, some parts of Port-au-Prince, and other locations. Local authorities held suspects in makeshift facilities, sometimes for extended periods, without registering them with the DAP.

Corrections authorities in Port-au-Prince maintained separate penitentiaries for adult men, women, and minors. Government reports suggested that as of July, approximately 4.5 percent of prison detainees were female, while 3 percent were

children. In Port-au-Prince, all males under 18 years of age were supposed to be held at the juvenile facility at Delmas 33, but given the lack of sufficient documentation, authorities could not always verify the ages of detainees. At times authorities detained minors believed to be older and whose ages could not be confirmed with adult inmates. Authorities moved the vast majority of these minors to juvenile detention centers within two months of verifying their ages. Outside of Port-au-Prince, minors and adults often occupied the same cells due to lack of available space. Authorities did not hold girls separately from women at the Petionville women's prison, but separated convicts from pretrial detainees when possible. Due to lack of space, resources, and oversight outside the capital, authorities often did not segregate juveniles from adult prisoners or convicted prisoners from pretrial detainees, as the law requires.

Corrections officers were severely under-resourced and lacked basic riot control and self-defense capacity. Prisoners' access to adequate nutrition remained a problem. The HNP has contractual and fiscal responsibility for the delivery of food to prisons. Some prisons had kitchen facilities and employed persons to prepare and distribute food. Prison authorities generally provided prisoners with one or two meals a day, consisting of broth with flour dumplings and potatoes, rice and beans, or porridge. None of the regular meals served to prisoners provided sufficient calories, according to medical standards. As a result, authorities allowed prisoners regular deliveries of food from relatives and friends. Human rights groups reported that families sometimes paid prison staff to deliver supplemental meals and clothing to prisoners.

The HNP also managed other service contracts at prisons, such as sewage treatment. Most prisons had insufficient sewage facilities for their populations. Since only one HNP central office handled all contracts for law enforcement and prisons, attention to sewage problems often was lacking.

Administration: The government did not keep adequate prison records. In 2009 the UN Development Program (UNDP) and the government created a database that began to track prison inmates. Its effectiveness was limited because the UNDP system was not completely compatible with the internal HNP recordkeeping system. All prisons utilized only handwritten paper files to document and manage inmates. There was no alternative sentencing for nonviolent offenders. The law permits religious observance in prison, and inmates could request to see a Protestant minister, a Catholic priest, or a Vodou houngan (religious leader). In practice most inmates gained access to religious services only once or twice a year. Prisons provided few if any organized, regular religious services, but members of

religious organizations occasionally visited prisoners. Prison authorities were supportive of NGOs providing services to prisoners, particularly at the National Penitentiary in Port-au-Prince. NGOs provided limited medical services.

There was no prison ombudsman to handle complaints; however, the government's Office of the Citizen Protector (OPC) maintained a presence at several prison facilities and advocated for the rights and better conditions of prisoners, especially juveniles in preventive detention. It also sponsored several small clinics around the nation to bring judges to prisons to focus on adjudicating pretrial detention cases, resulting in the release of 868 prisoners through September.

Independent Monitoring: The OPC regularly visited prisons and detention facilities in the country's 18 jurisdictions and worked closely with NGOs and civil society groups. The DAP permitted the ICRC, MINUSTAH, local human rights NGOs, and other organizations to freely monitor prison conditions. These institutions and organizations investigated allegations of abuse and mistreatment of prisoners, resulting several times in the improvement of their situations.

Improvements: Between January and March, the minister delegate for Human Rights and the Fight against Extreme Poverty, Marie Carmelle Rose Anne Auguste, conducted several needs assessments in various prisons throughout the country, including at the National Penitentiary and the prisons at Saint Marc, Cap Haitien, Petionville, and Gonaives. Her office, working in coordination with the DAP, provided clothing, rolls of toilet tissue, cups, bowls, forks, pillows, and hygiene kits to prisoners, as well as beds and reinforced tables and chairs for reading and writing workshops to inmates at the National Penitentiary. Minister Delegate Auguste also sponsored several reading, writing, and artistic workshops for prisoners in the Petionville women's prison between January and March.

In April the UN completed a detention renovation project in the National Penitentiary, which upgraded several cells and added both training classrooms and restroom facilities.

In September the government, with international assistance, began the construction of new 200- and 220-bed prison facilities in Cabaret and Petit-Goave. Renovations continued at the existing prisons in Cap Haitien, Arcahaie, and the juvenile detention center at Delmas 33 in Port-au-Prince.

In October, as part of its plan to rehabilitate downtown Port-au-Prince, the government initiated a project to close the National Penitentiary and move inmates

to detention centers in other jurisdictions. As of December the government had not specified how it planned to re-house the penitentiary's approximately 4,100 inmates.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention, and the constitution stipulates that authorities may arrest a person only if apprehended during the commission of a crime or based on a warrant issued by a competent official such as a justice of the peace or magistrate. Authorities must bring the detainee before a judge within 48 hours of arrest. By routinely holding prisoners in pretrial detention, authorities often failed to comply with these provisions.

The OPC's national and 12 regional offices worked on behalf of citizens to ensure that law enforcement and judicial authorities respected the right to due process. When authorities detained persons beyond the maximum allotted 48 hours, the responsibility of the OPC was to intervene on their behalf to speed up the process. The OPC did not have the resources to intervene in all cases of arbitrary detention.

In late July newly appointed Judge Lamarre Belizaire ordered the arrest of Enold Florestal – the plaintiff in a corruption case against the wife and son of President Martelly. The judge also issued an official summons for one of his lawyers, Andre Michel, for allegedly planning the 2010 shooting death of Frantzy Duverseau (Enold Florestal's brother-in-law). The shooting was carried out by individuals who at the time were active in the HNP. The same day on Judge Belizaire's orders, the HNP arrested Enold's brother, Josue Florestal, for his alleged involvement in the 2010 shooting. In August HNP officers beat and arrested Enold, and submitted him for questioning by Belizaire about his actions in the lead up to Duverseau's death. Enold refused to answer Belizaire's questions without having his lawyer present. Human rights group RNDDH visited Enold at the National Penitentiary after his arrest, and verified that he had been beaten while in custody.

Human rights groups criticized Belizaire's actions, arguing that he did not follow proper judicial procedure in either re-launching the investigation into Duverseau's 2010 death or issuing arrest warrants and summons for the Florestal brothers and Andre Michel. Led by Haitian Bar Association-nominated CSPJ member Jacques Letang, the CSPJ opened an investigation into Belizaire's actions. After initially ignoring a late August summons to testify before the members of the CSPJ in the affair, Belizaire argued that Letang's affiliation with the Bar Association (which

had issued a public note condemning Belizaire in early August) prevented him from investigating him in an unbiased fashion. CSPJ member Alix Civil subsequently replaced Letang as lead investigator. As of December, there were no developments in Belizaire's investigation by the CSPJ.

In late October HNP officers detained Andre Michel on obstruction of justice charges after he refused to allow his car to be searched during an evening traffic stop. Authorities held Michel for the remainder of the night and most of the next day for questioning. While detained, Michel spoke with counsel and other associates and was moved to several different locations during the incident. Parliamentarians and bar colleagues joined Michel at Port-au-Prince's main courthouse during the afternoon of October 23, unlawfully removed him from custody without violence to the Parliament building, where he met with members of both the Chamber of Deputies and the Senate. Michel's detention prompted demonstrations in both Port-au-Prince and Cap Haitian. Following the incident, the Haitian Bar Association initiated a general strike to protest what they described as the judiciary's harassment of Enold Florestal and Andre Michel. Several government officials, including the minister of justice, the president of the CSPJ, and representatives of the Office of the Prime Minister, described Michel, who was also the subject of a subpoena (mandate d'amener) in connection with the Duverseau murder case, as a fugitive, although government officials did not serve him with the subpoena when he was in police custody. In November, following negotiations with lawyers affiliated with Michel, Judge Belizaire cancelled the subpoena against him. Michel met with Belizaire at the Port-au-Prince Bar Association headquarters to answer his questions. As of December the State Prosecutor was relieved of his position and the strike ended.

### **Role of the Police and Security Apparatus**

The HNP is an autonomous civilian institution under the authority of a single director general and includes police, corrections, fire, emergency response, airport security, port security, and coast guard functions. The HNP's capabilities and professionalism improved during the year; in June, the HNP dismantled a ring responsible for at least 12 kidnappings, made 72 arrests for a range of other crimes, and seized seven firearms and 500 kilograms of marijuana.

In September President Martelly welcomed the return of 40 Haitian students who participated in a nine-month military engineering education and training program in Ecuador. The engineers joined a larger force with border surveillance, counternarcotics, civil affairs, disaster preparedness and environmental protection

work and began working in the Artibonite Valley with a non-MINUSTAH Ecuadorian engineering unit already stationed there.

Impunity for alleged abuses committed by members of the police force remained a problem during the year. Officially, the Ministry of Justice and Public Security, through its minister and the secretary of state for public security, provides oversight to the HNP. The HNP's OIG is responsible for conducting internal investigations into allegations of police misconduct and recommending administrative action, as well as referring cases of criminal police misconduct to the prosecutor. Neither the OIG nor the prosecutors consistently managed cases effectively.

Women constituted approximately 10 percent of the police force. The HNP Sexual and Gender-Based Violence (SGBV) unit remained underresourced. The unit had two satellite offices at Fort National and Delmas 33. SGBV unit leadership noted that several Port-au-Prince-based police stations contained HNP officers who had benefited throughout the year from training on GBV issues.

Since 2004 MINUSTAH, made up of 8,748 international military and police officers and civilians as of October, has operated with a mandate to assist and advise the government on security-related matters. MINUSTAH retained responsibility for patrolling IDP camps, but without arrest authority and with limited HNP support, it had difficulty controlling crime and violence that occasionally erupted (see section 2.d.).

Foreign governments and other entities continued to provide a wide variety of training and other types of assistance to increase HNP professionalism.

### **Arrest Procedures and Treatment of Detainees**

The law permits police officers to make arrests when they apprehend a suspect during the commission of a crime, or subsequently with a court-authorized warrant.

Authorities generally allowed detainees access to family members after arrest. While authorities generally acknowledged the right to counsel, most detainees could not afford a private attorney. Some departmental bar associations and legal assistance groups provided pro-bono counsel to indigents. Some NGO attorneys also provided pro-bono services to the indigent, but the government had no nationwide program to address these deficiencies. The criminal procedure code does not afford a functional bail system.

Arbitrary Arrest: MINUSTAH reporting confirmed instances in which, contrary to Haitian law, police apprehended persons not actively committing crimes without warrants or with improperly prepared warrants. Authorities frequently detained individuals on unspecified charges. Persons arrested reported credible instances of extortion, false charges, illegal detention, physical violence by HNP personnel, and judiciary officials' refusal to comply with basic due process requirements. The judicial system rarely observed the constitutional mandate to bring detainees before a judge within 48 hours, and prolonged pretrial detention remained a serious problem. In some cases detainees spent years in detention without appearing before a judge.

Pretrial Detention: Prolonged pretrial detention remained a serious problem. Prison population statistics did not include the large number of persons held in police stations around the country for longer than the 48-hour maximum initial detention period. Of the approximately 10,400 prison inmates, authorities held approximately 7,414 (or 73 percent) in pretrial detention. Approximately 72 percent of adult male prisoners and 78 percent of adult female prisoners were in pretrial detention, while 80 percent of male minors and 96 percent of female minors were pretrial detainees. Pretrial detention was significantly more prevalent in Port-au-Prince, where the pretrial detainee population represented approximately 58 percent of the national pretrial detainee prison population. As of July authorities had yet to try an estimated 91 percent of Port-au-Prince's inmates.

In some jurisdictions outside of Port-au-Prince, the size of the pretrial detention population was much closer to internationally defined norms. Many pretrial detainees had never consulted with an attorney, appeared before a judge, or been given a docket timeline. While statements from prison wardens suggested that on average the majority of inmates spent between two and five years in pretrial detention, reports indicated that time spent in pretrial detention was much lower, and varied by geographic jurisdiction. The average length of pretrial detention for inmates in the prisons in Saint-Marc, Fort Liberte, and Cap Haitien were 4.0, 4.2, and 8.6 months, respectively. Prisoners in the National Penitentiary and women's prison spent an average of 15 and 21 months, respectively. Even so, several inmates in the National Penitentiary claimed to Ministry of Justice representatives in March that they had spent more than five years in pretrial detention, allegations that local ICRC staff corroborated.

Amnesty: In March the government granted amnesty to 104 prisoners and commuted the life sentences of six other inmates to 15 years. The Port-au-Prince

First Instance Court also amnestied four women. The Ministry of Justice and Public Security collaborated closely with human rights organizations prior to releasing the prisoners to ensure that individuals selected for amnesty had not been convicted of gross violations of human rights. In October, in commemoration of the World Day for Prisoners, the government granted amnesty to an additional 64 detainees, including 27 women and girls housed at the Petionville Women's Prison.

#### e. Denial of Fair Public Trial

Although the law provides for an independent judiciary, senior officials in the executive and legislative branches exerted significant influence on the judicial branch and law enforcement. Allegations of high-level executive intimidation of judicial officials and corruption were frequent. MINUSTAH and international and local NGOs repeatedly criticized the government for attempting to influence judicial officials. Judges assigned to politically sensitive cases complained about interference from the executive branch. In one high-profile case, senior government officials in the National Palace, Ministry of Justice and Public Security, and Prime Minister's Office were accused of pressuring Serge Joseph, a judge investigating allegations of corruption involving members of President Martelly's family. Parliamentary officials rarely cooperated with the judiciary to investigate accusations of corruption and crime involving sitting parliamentarians (see section 1.a.). Internal political divisions and organizational, funding, and logistical problems often hampered the efficient functioning of the CSPJ, charged with independently overseeing judicial appointments, the discipline of judges, ethics issues, and the management of the judiciary's financial resources.

Pervasive and longstanding problems, primarily stemming from a lack of judicial oversight and professionalism, contributed to a large backlog of criminal cases. In addition, the justice system sustained significant losses in the 2010 earthquake, hampering prosecutions and effectively denying those in the system the right to a speedy trial.

The code of criminal procedure does not clearly assign criminal investigation responsibility, which it divides among police, justices of the peace, prosecutors, and investigating magistrates. As a result, authorities often failed to question witnesses, complete investigations, compile complete case files, or conduct autopsies. While the law provides magistrates two months to request additional information from investigators, authorities were not supposed to invoke this delay more than twice for a given case. Magistrates often did not follow this requirement

in practice, and investigators often dropped cases or did not return them within the two-month limit. Practically, this resulted in extended pretrial detention for numerous detainees.

Corruption and a lack of judicial oversight also severely hampered the judiciary. Human rights organizations reported that several judicial officials, including judges and court clerks, arbitrarily charged fees to initiate criminal prosecutions, and that judges and prosecutors failed to respond to those who could not afford to pay. There were widespread, credible allegations of unqualified and unprofessional judges who received appointments as political favors. There were also persistent accusations that court deans – who are responsible for assigning cases to judges for investigation and review – at times assigned politically sensitive cases to judges with close ties to figures in the executive and legislative branches. In response, human rights organizations often formally requested that the CSPJ investigate the behavior and review the judicial decisions of judiciary officials. The CSPJ was not always effective in ensuring judicial accountability and transparency. Many judicial officials also held full-time occupations outside the courts, even though the 1987 constitution bars judges from holding any other type of employment except teaching.

There were no developments in the 2012 Senate inquiry investigating the controversial 2012 firing of Port-au-Prince prosecutor Jean Renel Senatus by Minister of Justice Sanon.

## **Trial Procedures**

The judicial apparatus follows a civil law system based on the Napoleonic Code and has remained largely unchanged since 1880. Authorities widely ignored certain constitutionally guaranteed trial and due process rights. The constitution also expressly denies police and judicial authorities the right to interrogate suspects unless legal counsel or a representative of the suspect's choice is present or the suspect waives this right.

The constitution provides defendants a presumption of innocence, as well as the right to attend trial, confront hostile witnesses, and call witnesses and evidence on their own behalf. Judges often denied these rights. The perception of widespread impunity also discouraged some witnesses from testifying at trials. Defendants and their attorneys had access to government-held evidence before trial, and defendants had the right of appeal.

After the April release of a government anti-corruption unit (ULCC) report on the embezzlement of funds from the national free education program, Gonaives prosecutor Enock Gene Genelus arrested and detained several local school directors – including the presumed Gonaives mayoral candidate and vice president of the political party Christian Movement for a New Haiti, Pastor Roosevelt Augustin – along with Delinois Dalencourt and Emmanuel Baptiste. Augustin’s lawyers quickly protested the arrests, and Gonaives First Instance Court Dean Berry Petit-Frere ordered the immediate release of the three detainees. In May, after Genelus initially refused to acknowledge the order, Gonaives Deputy Sadrac Dieudonne, who led the Christian Movement for a New Haiti political party, claimed the arrests were politically motivated and designed to benefit Neil Latortue, the brother of a presidential advisor, who also planned to run for mayor of Gonaives in the next municipal election. In late May the Senate Justice Commission convoked Minister of Justice Sanon and Genelus to a special session to testify about the ULCC report-related arrests. In his testimony Genelus denied having ever received Dean Petit-Frere’s orders calling for the school directors’ release. The Senate Justice commission promptly instructed Sanon to request the Gonaives prosecutor to release Augustin and the others, who were freed shortly after.

The functioning of civil courts (tribunaux de paix), the lowest courts in the judicial system, was poor. Judges presided in chamber based on their personal availability and often maintained separate, full-time jobs. Law enforcement personnel rarely maintained order during court proceedings, and frequently there was no court reporter. Bribes were often the principal factor in a judge’s decision to hear a case.

In multiple locales, especially in rural areas, elected communal administrators (CASECs) took the place of state judges and asserted powers of arrest, detention, and issuance of legal judgments. Some CASECs turned their offices into courtrooms.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

Victims of alleged human rights abuses were legally able to bring their cases before a judge for cessation of the violation. Courts could award damages for

human rights abuse claims brought in civil fora. Seeking these types of remedies was difficult and rarely successful.

The investigation into former president Jean-Claude Duvalier's alleged involvement in human rights abuses during his time in power continued as a class of plaintiffs pursued an appeal of the trial court's January 2012 decision to dismiss charges of human rights violations and crimes against humanity. In January Court of Appeals judges formally requested Duvalier's presence to provide testimony, which Duvalier attempted to avoid several times until compelled to do so in late February. The same court in February also rejected Duvalier's lawyer's efforts to dismiss the case because the plaintiffs – victims of violence during the Duvalier regime – did not possess legal standing and the Court of Appeals did not have subject matter jurisdiction. In April Court of Appeals judges began to hear the testimony of witnesses claiming to have suffered abuse at the hands of the Duvalier regime. Hearings ended in May, but the prosecutor's order remained pending as of November.

Cases involving violations of an individual's human rights may be submitted through petitions by individuals or organizations to the Inter-American Commission of Human Rights, which in turn may submit the case to the Inter-American Court of Human Rights. The court can order civil remedies including fair compensation to the individual injured.

## **Property Restitution**

There were isolated reports that the government failed to provide proportionate and timely restitution or compensation for governmental takings of private property.

### **f. Arbitrary Interference with Privacy, Family, Home, or Correspondence**

The law prohibits such actions, and the government generally respected these prohibitions; however, there were several reports of government agents assisting in unauthorized forced evictions and relocations of IDPs (see section 2.d.).

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Speech and Press**

The law provides for freedom of speech and press, and the government and elected officials generally respected these rights in practice. The independent media were

active and expressed a wide variety of views without restriction. There were allegations of officials and security agents harassing or threatening journalists who criticized the government (see section 1.c.).

Press Freedoms: The independent media were active and expressed a wide variety of views without formal restriction. There were several incidents, however, of reported threats of violence and reprisals against journalists by national and local government officials. As a result, some independent media claimed to feel unable to freely critique the government. In July human rights organization Platform of Haitian Human Rights Organizations condemned what it said was increased aggression against journalists on the part of public officials during the year. Some journalists and NGOs persisted in criticizing the Martelly Administration's treatment of the press. There were several reports that uniformed police officers and other government officials harassed or assaulted journalists in the course of doing their job.

In February, prior to the annual Carnival festival, Minister of Justice Sanon issued a press release noting his ministry's renewed emphasis on applying the country's laws against defamation, and highlighted that threats and incitement to violence in the media would not be tolerated. In response, the National Association of Haitian Media (AMHN) criticized Sanon's decision, citing the government's use of such defamation laws in 1986 to limit freedom of expression. The Senate called Sanon to testify in late February, and during the session, the minister noted that he was simply carrying out his mandate to enforce laws that parliament had passed, and legislators should revoke the defamation law if they deemed it a threat to press freedom.

Violence and Harassment: Several journalists were subject to threats, harassment, and physical assault due to their reporting throughout the year. In some instances, government authorities participated in these acts. There were some developments in prominent cases from previous years.

In January the Hinche Court of Appeals dropped the charges against Jean Soverne Delva, the former mayor of Thomonde accused of hiding and protecting a member of his security team, Jean-Robert Vobe, after the latter shot and seriously injured Tele Zenith journalist Wendy Phele in Thomonde in April 2011. In late February Delva was nominated to serve again as Thomonde Mayor. Radio Tele Zenith owner Rony Colin and Liliane Pierre-Paul of the AMHN wrote public letters to both Minister of Justice Sanon and First Lady Sophia Martelly criticizing the appellate court's decision.

In February two Radio RFM journalists, Watson Phanor and Etzer Cesar, claimed that they were repeatedly beaten by agents of the National Palace Security Unit during the Carnival in Cap Haitien (see section 1.c.). There were no arrests made as a result of this incident.

The 2000 killing of journalist Jean Dominique remained unsolved; however, judicial authorities called several high-profile figures to testify in the case's investigation, which was re-opened by local judiciary officials. The court summoned former presidents Rene Preval and Jean Bertrand Aristide, and they offered their testimony to investigating judges in March and April, respectively.

In May Mirebailais Justice of the Peace for Saut d'Eau Sauter Floris accused three journalists working for Radio Rezistans FM – Simon Lionel, Israel Roger Claudy, and Rabeau Louis – of defamation for their reporting on a land dispute issue involving Floris. Floris and his lawyers summoned the journalists to demand a public apology, which the journalists refused to provide. Following the incident, the Association of Mirebailais Journalists denounced the official's behavior.

Also in May, Davidson Alcime, journalist for the Cap Haitien-based "Radio Paradis" and "Tele Paradis" claimed he received several death threats from North Department director of the Ministry of Sports and Youth Welsy Borgella after conducting a broadcast assessing Borgella's and President Martelly's first two years in office. Following the broadcast, Borgella allegedly threatened Alcime during a chance encounter. Alcime spoke during a press conference following the encounter to denounce the threats.

During a June session of parliament in which Prime Minister Laurent Lamothe was testifying, parliamentary security assaulted journalists Fegentz Canes Paul and Patrick Souvenire. Paul claimed that he suffered broken ribs and a head injury after being repeatedly hit with the butt of one of the agents' revolver. The two journalists filed complaints against the parliamentary security agents with the Port-au-Prince First Instance Court. As of September there were no further developments in the case.

**Censorship or Content Restrictions:** There were no reported cases of government-sponsored censorship.

Libel Laws/National Security: There were no libel laws used or national security provisions cited to suppress the publication of material criticizing government policies or public officials.

## **Internet Freedom**

There were no government restrictions on access to the internet or credible reports that the government monitored e-mail or internet chat rooms without appropriate legal authorization. According to the International Telecommunication Union, approximately 11 percent of citizens used the internet.

## **Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events.

### **b. Freedom of Peaceful Assembly and Association**

The constitution guarantees the right to peaceable assembly and freedom of association, and the government generally respected these rights.

#### **Freedom of Assembly**

In contrast to previous years, there were no deaths observed in the holding of annual festivals celebrating Carnival in February and July.

There were some instances when the police used force to impose order during demonstrations (see section 1.a.). Citizens must apply for a permit to hold legal demonstrations. Impromptu political demonstrations in some instances provoked aggressive law enforcement responses. In some cases law enforcement authorities did not grant permits to prospective demonstrators for fear that the protests would lead to greater violence (see section 6).

Throughout the country, groups held impromptu demonstrations in front of key government facilities or on major public thoroughfares. These groups often erected barricades, sometimes with burning tires and debris, and occasionally threw rocks and bottles at passing motorists and at government, HNP, and UN vehicles.

There were no developments in the investigations following the July killing of four Parc La Visite squatters during a government-facilitated forced eviction.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt](http://www.state.gov/j/drl/irf/rpt).

### **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. The government cooperated with international and humanitarian organizations, as well as other countries, in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern (see section 1.d.). Local and international human rights organizations, however, highlighted government consent of or active participation in the forced eviction of several IDPs from remaining tent camps.

Foreign Travel: The Institute for Social Well-Being and Research (IBESR), under the Ministry of Social Affairs and Labor, maintained its policy of requiring minors departing the country without their parents to have parental documentation authorizing the travel. According to IBESR officials, this policy helped deter instances of child trafficking and smuggling throughout the year (see section 6).

Emigration and Repatriation: Reports by human rights and humanitarian groups contended that Dominican law enforcement officials carried out arrests and repatriations of Haitian laborers and migrants in the Dominican Republic in ways that violated Haitians' civil rights. The International Organization for Migration (IOM) worked with Haitian authorities to facilitate the repatriation of Haitians living and working in the Dominican Republic. Local migration NGO Jeannot Success Border Network criticized the situation and blamed Haitian government immigration authorities for not engaging with their Dominican counterparts to ensure the safe repatriation of Haitians.

### **Internally Displaced Persons (IDPs)**

The government engaged in efforts to promote the safe, voluntary return, or resettlement of post-earthquake IDPs but required substantial operational and financial support from international partners. These actions contributed to the significant decline of the IDP population during the year. The presence of IDP

camps in the country persisted, with a large concentration of the estimated 306 remaining camps located in the greater Port-au-Prince metropolitan area. September estimates placed the number of IDPs remaining in camps at approximately 172,000 persons with approximately 113,300 IDPs departing camps or being resettled during the year. Statistics from the IOM's Displacement Tracking Matrix suggested that by September the overall post-earthquake IDP population had decreased 89 percent from the estimated peak of internal displacement in July 2010.

The government, with the aid of international partners, continued with its flagship IDP resettlement program, the 16/6 Project. By the end of 2012, 11,000 families residing in IDP camps benefitted from this project, which completely emptied many highly visible camps on public land in Port-au-Prince. Several NGOs and international partners implemented similar resettlement programs. Approximately 90 percent of all IDP households who departed camps during the year left because of the support they received from national or internationally supported resettlement programs.

According to the IOM's July report, a substantial portion of the remaining camp population had no viable means of paying for rented housing or alternatives in the event of emergency. While some of the larger IDP camps had support from NGOs, the UN, and domestic law enforcement, many others were unregulated, with severely strained resources and extremely limited access to clean water and sanitation.

Through the UN police force (UNPOL), MINUSTAH maintained its presence in IDP camps and provided 24-hour security in some camps with high levels of reported violence. Nonetheless, even in camps with a law enforcement presence, residents and international observers reported little in the way of effective protection from violence, including SGBV, urban crime, and forced evictions. MINUSTAH and UNPOL members did not have arrest authority and typically functioned as a deterrent force, rather than one actively engaged in law enforcement. International arrangements governing MINUSTAH's operations require an HNP officer to be present for any law enforcement operation, which effectively prevented MINUSTAH officers from engaging in crime prevention in the IDP camps without an HNP presence. Understaffing by the HNP sometimes prevented this partnership from functioning effectively. International workers in the camps noted that the HNP and MINUSTAH did not always enjoy positive relationships with IDPs. Camp residents and NGO workers reported that most

police patrols, both UNPOL and HNP, monitored only the perimeter of camps and typically did not patrol after dark.

Some IDPs who received money, services, or a combination of both as incentives to move out of camps did so successfully, while others simply moved to different unregulated camps.

Data on forced evictions from the reports of international organizations working with IDPs suggested that through September, approximately 4.3 percent of IDPs (4,908 persons) leaving camps during the year were forcibly evicted.

As of September IOM reported 75 percent of remaining IDP camps occupied privately owned land and that landowners, in some cases, acted on their own initiative to forcibly evict IDPs. In several instances, private landowners initiated the illegal forced eviction of IDP camp residents, at times with the participation of local government officials and HNP officers. In April an Amnesty International report concluded that municipal and law enforcement officials often exceeded their authority in forcibly evicting IDP residents from private land. According to the report, the law specifies a complex and time-consuming procedure to initiate a forcible eviction. MINUSTAH sources indicated that since 2010 not a single forced eviction proceeding had been filed in court.

In late April, Minister Delegate Auguste issued a statement questioning the Amnesty International report and claiming that the government was doing all it could to ensure the dignity and protection of the IDP population, specifically through its 16/6 program. Local and international human rights and humanitarian groups noted that the government failed to respond adequately to illegal forced evictions facilitated by public officials and law enforcement during the year.

In April the HNP responded to disturbances triggered by an attempted forced eviction at the Accra IDP camp, allegedly situated on property belonging to Jean Claude Duvalier's lawyer Reynold George. One person died in the violence (see section 1.a.).

In June authorities forcibly evicted approximately 150 families from the Bristou IDP camp in Peguy-Ville. According to witnesses, in April the presumed landowner, Julius Dufrense – a close friend and business partner of President Martelly – threatened the residents and ordered them to leave. Returning on June 4 with other civilians, three HNP vehicles with 14 officers, and Mario Brutus (the husband of the Martelly-appointed mayor of Petionville), Dufrense proceeded with

the eviction, which lasted until the next morning and resulted in a tractor destroying 12 IDP tents. According to the reports of UNPOL officers present at the scene, the camp inhabitants fought back, and the HNP arrested 11 persons. The next day, Dufresne and Brutus returned with the same 14 HNP officers, a tractor, and a garbage truck and destroyed remaining tents and effects. Part of the Bristou property allegedly rested on the site of a government-planned sports park. Government officials similarly noted that many HNP officers participating in forced evictions were likely being paid by municipal council members or private landowners, and were not operating under HNP authority when engaged in these activities. After the Bristou incident, Minister Delegate Auguste contacted both the Secretary of State of Public Security Reginald Delva and the prime minister to demand an investigation and to urge dialogue to prevent further incidents.

### **Protection of Refugees**

Access to Asylum: The law provides for the granting of refugee status or asylum through Haitian missions or consulates abroad. In addition, individuals could petition for asylum through the local office of the UN high commissioner for refugees (UNHCR). There were no reports, however, of requests for such status. In 2012 the UNHCR registered 11 Cuban asylum seekers.

### **Stateless Persons**

The country's dysfunctional civil registry system yielded no reliable estimates on the number of stateless persons within the country.

### **Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government**

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

### **Elections and Political Participation**

Recent Elections: The country held two rounds of presidential and legislative elections in 2010 and 2011. Michel Martelly won the presidential run-off, during which there were isolated incidents of fraud, flawed voter registration lists, ballot stuffing, intimidation, and some violence. International observers and civil society generally considered the second round to be free and fair.

Due to a continuing impasse between the executive, legislative, and judicial branches over the proper procedures to establish and promulgate an elections law and to organize elections, the government had yet to hold partial Senate and local elections, which in some cases have been delayed for several years. The terms of all local and municipal officials expired in May 2011 while the terms of one-third of the Senate expired in May 2012. While the 10 Senate seats have not been filled – causing significant quorum problems in the upper house – many of the local and municipal officials whose terms expired in May 2011 have been replaced by executive branch appointees seen as friendly to the current administration. The replacement of democratically elected officials with political appointees at the local level fueled criticism of President Martelly. On April 19, the Transitional College of the Permanent Electoral Council (CT/CEP), which consisted of three members from each of the three branches, took office, thereby ending a nine-month standoff over its creation.

Charged with organizing elections, the CT/CEP engaged with civil society and political party representatives and drafted an electoral law, which it forwarded to the executive branch on July 1. The Martelly administration convened its own task force, which studied and revised the bill for two months. Civil society, opposition political parties, and parliamentarians criticized these actions, alleging President Martelly was intent on delaying the electoral process.

President Martelly also cited the 2008 electoral law to advocate a one-year curtailment of the six-year terms for the 10 senators sworn-in in 2009. This position drew opposition from domestic political figures and from international community representatives, who concluded the constitution allowed for the additional year.

On August 27, the Executive Branch forwarded a heavily revised draft 2013 electoral law to parliament that in Article 245 provides for the earlier (January 2014) expiration of the 2009 Senate mandates. On the last day of its session on September 9, the lower house of parliament passed an amended version of the bill, which rejected the president's interpretation of the Senate terms issue, and set January 2015 as the expiration date. The Senate passed a further amended version of the bill on October 2, which also set January 2015 as the expiration date for the terms of the 10 senators elected in 2009.

On October 14, under the auspices of the ecumenical group Religions for Peace, President Martelly and parliamentary leadership began discussions on resolving the

months-long dispute over the electoral law, electoral calendar, and related issues. Following the initial discussion, which led to an agreement on the modalities for substantive talks, the Executive Branch engaged in broad consultations with several deputies and senators in early November to negotiate a way forward on elections.

In November President Martelly convened an extraordinary session of the legislature (a National Assembly) in order to allow the Chamber of Deputies to vote on the version of the electoral law passed by the Senate on October 2. The lower house voted in favor of the Senate's version of the bill on November 27. A final electoral law was sent by parliament to the executive for signature and publication on December 4. On December 10, the government promulgated a new electoral law setting the stage elections in 2014. In signing the law, President Martelly accepted provisions that represented concessions to the parliamentary opposition.

Political Parties: In April the Chamber of Deputies passed a long-awaited law governing the creation, functioning, and financing of political parties that the Senate had previously passed in April 2012. Civil society and political party leaders viewed this law as important for governing upcoming and future elections. The Martelly administration refused to sign and publish the legislation, returning it to parliament with significant revisions to the majority of the articles. The law was included as part of President Martelly's November convocation of the legislature, allowing the parliament to resume consideration of the law. In early December the lower house voted to reject the Executive's suggested revisions. The political parties' law was pending in the Senate, awaiting its assessment of the Executive's revisions.

Participation of Women and Minorities: Five female members served in the Chamber of Deputies, and no women served in the Senate. In May 2012 President Martelly promulgated a set of constitutional amendments, including one that recognized the principle of "at least 30 percent women's participation in national life and in public service." As a result, there was a marked increase in the number of women serving in appointed executive branch positions during 2012-13. As of November, eight of 23 ministers and one of 10 secretaries of state were women. Four out of the nine CT/CEP counselors appointed in April were women, as was the council's director general. One of the nine members of the CSPJ and one of the nine members of the Cessation Court were women. In December the parliament inaugurated an office of gender equity, led by Deputy Josie Marie

Etienne, which will focus on comprehensively incorporating gender into pending legislation, as well as drafting new legislation aimed at addressing inequities

Election laws since 2008 provided significant financial incentives for political parties to field women candidates, but parties have consistently failed to meet the incentive criteria. The gender provisions in the draft 2013 electoral bill met significant resistance in the lower house of parliament; during its review process, the Chamber of Deputies removed virtually all of the gender provisions the CT/CEP and the executive included in their drafts. On October 2, the Senate reinstated most of the gender provisions, citing its obligation to follow the recent constitutional amendment mandating 30 percent women's participation. The lower house adopted the Senate's revisions in late November. Women's groups criticized the fact that no provisions in any version of the electoral law addressed the issue of ensuring adequate women's representation in parliament.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials; however, the government did not implement the law consistently or effectively, and officials frequently engaged in corrupt practices with impunity. There were numerous reports of government corruption during the year. Law enforcement authorities and the government's anti-corruption agencies launched several investigations that led to the arrest of some government officials. Although the government continued to implement legal, administrative, and management reforms designed to increase accountability in several ministries and government institutions, corruption remained widespread in all branches and at all levels.

Corruption: In February the Senate heard the case of Luckerson Laguerre, a former diplomat serving in Santiago, Dominican Republic, who was involved in a visa scandal. The government recalled the consul from his posting and suspended his salary pending investigation. The same month, law enforcement also arrested Merline Torez, a former diplomat who was also involved in a continuing visa scandal.

Also in February North West Department Instruction Judge Vinx Etienne indicted 63 individuals, including Alcidonis Henry, a former education official, before a criminal tribunal on suspicion of embezzling 10 million Haitian gourdes (HTG) (\$230,400) from the government's national free education program funds. Many of those indicted fled the country, including several executives from the Haitian National Bank of Credit as well as Port de Paix's Ministry of Education

representative. The Central Financial Enquiry Unit (UCREF) of the Ministry of Finance froze the bank accounts of all those involved in order to recover the embezzled funds.

In March Judge Wilmer Morin formally requested parliament lift the immunity of two sitting deputies in order to facilitate a criminal investigation into the murder of an HNP officer (see section 1.a.). After a formal inquiry involving several deputies interviewing witnesses to the crime, the Chamber of Deputies formally denied Morin's request in August. Human rights advocates criticized the decision, which they claimed provided legislators unreasonably broad shelter from prosecution.

In late June and early July, law enforcement and judiciary officials arrested several individuals with close connections to the National Palace – long-time Martelly associate Jojo Lorquet, presidential driver Patrick Maitre, and Haitian media figure, journalist, and radio personality Ernest Laventure Edouard (Konpe Moloskot) – for their presumed involvement in corruption. Authorities arrested Lorquet for the alleged selling of forged government badges. Authorities accused Edouard, a regular employee of the customs directorate until September 2012, of posing as general customs coordinator and distributing fake badges allowing access to the government's various customs offices around the country. President Martelly publicly acknowledged having been friends with Edouard but denied any involvement in his presumed corrupt activity. Edouard claimed that he received permission from the National Palace to distribute the forged badges. The cases of these three individuals remained pending in September.

The constitution mandates that the Senate prosecute high-level officials and parliament members accused of official corruption, instead of handling such cases within the judicial system. Although the Senate brought no such prosecutions, both houses of parliament launched investigations into the alleged roles played by high level executive officials, including President Martelly, Prime Minister Laurent Lamothe, and Minister of Justice Sanon, in pressuring Judge Serge Jean Joseph to drop his corruption case against members of the Martelly family (see section 1.e.). Joseph died of a stroke a few days following an alleged meeting with the group, and local medical authorities confirmed that Joseph died of natural causes. Nonetheless, the hastily prepared and undocumented August report of a special Senate commission leading the inquiry concluded that authorities exerted strong pressure on Joseph to compel him to abandon his investigation and recommended that the judiciary and Port-au-Prince prosecutor follow up with separate investigations to determine the exact nature of the coercion. Shortly afterwards,

the Chamber of Deputies released a report with similar findings. By September the full Senate had not yet approved the report or acted on its findings. President Martelly, Lamothe, and Sanon all denied participating in any meeting with Joseph.

The day following the release of the Senate report, then Port-au-Prince prosecutor Lucmane Delille began interviewing witnesses connected to the death of Joseph, and announced his office would begin investigating the case. The CSPJ similarly opened its own inquiry into the role that judiciary officials allegedly played in setting up the alleged meeting with Joseph in August. By the end of that month, however, several CSPJ members had signed and published an open letter describing how the CSPJ president, Anel Alexis Joseph (also president of the Cassation Court and close partner of President Martelly), was interfering with the internal investigation into the matter. CSPJ member Jacques Letang, charged with leading the inquiry, recused himself shortly after citing President Joseph's obstruction.

There were frequent reports of corruption in the HNP. For instance, affluent prisoners at times obtained favorable conditions of detention. The HNP investigated some allegations of police malfeasance. The Brandt kidnapping resulted in the arrest and prosecution of several HNP officers who were accused of being members of his kidnapping gang (see section 1.b.). In September Ralph Stanley Jean Brice replaced HNP Inspector General Erick Cherisca, who HNP leadership removed amid allegations of involvement in illegal activities.

The UCREF has responsibility for combating financial crimes. As of September there was no update in the prosecution of the 16 corruption cases that the ULCC had referred to the office of the Port-au-Prince prosecutor in 2012. The case of Edrick Leandre, a former director general of the Office of Third Party Vehicle Insurance, whom authorities arrested in 2011 on charges of corruption and embezzlement of public funds, remained pending as of September. The ULCC was widely perceived as having sufficient funding, and it enjoyed a positive reputation, although it did not enjoy any major successes stemming from high-level investigations beyond inquiries into the embezzlement of public funds by government officials early in the year.

Whistleblower Protection: In May 2012 a draft whistleblower protection project law was deposited in parliament, but the draft law remained stalled in the Senate during the year.

Financial Disclosure: The law requires all senior officials of the government to file financial disclosure forms within 90 days of taking office and within 90 days of leaving office. The official must report his or her assets, and those of his or her immediate family. There is no requirement for periodic reporting. The ULCC is the governmental unit responsible for collecting and verifying these reports. While the entity reported all high level government officials had filed the necessary financial disclosure forms for 2012, it remained unclear whether officials newly appointed in 2013 had done so or whether the ULCC had engaged in the requisite verification protocols. The sanction for failure to file the report was a withholding of 30 percent of the official's salary. In practice, the ULCC did not apply this sanction. When filed, these disclosure reports were confidential and not available to the public.

Public Access to Information: No law requires the government to provide citizens access to government information.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally cooperated in addressing the views of various human rights groups, although they disagreed at times on the scope of certain human rights problems and the most appropriate means of addressing human rights issues.

There were some reports of governmental efforts to restrict or otherwise suppress criticism, specifically by journalists (see section 2.a.). Prominent human rights advocacy organizations were often able to elicit supportive responses from the CSPJ after publically calling for investigation into perceived violations of human rights and the rule of law by members of the judiciary.

Government Human Rights Bodies: In May the Martelly administration issued a decree creating an interministerial human rights committee (CIDH) to coordinate and harmonize the country's laws and public policies with constitutionally guaranteed and internationally recognized human rights. The CIDH is statutorily composed of representatives from the office of the prime minister, the minister delegate, the justice ministry, the labor ministry, the Ministry of Women's Affairs and Women's Rights, Ministry of Public Health, Ministry of Education and Professional Training, Ministry of the Interior and Territorial Collectivities, and

Ministry of Foreign Affairs and Worship. The CIDH was also responsible for creating and implementing a national human rights policy strategy. The decree creating the CIDH stipulated that the body must meet at least quarterly and is to receive its funding from the Ministry of Planning and External Cooperation.

Minister Delegate Auguste provided the prime minister with human rights policy guidance and implemented several national poverty alleviation programs. In June Auguste and Prime Minister Lamothe noted that several of these social programs affected over 70,000 persons since starting in January. The minister delegate also led the government in several human rights-related initiatives, including the development of a national human rights institute, follow-up on the 122 recommendations received during the country's Universal Periodic Review, facilitating the creation and work of the CIDH, and preparing reports for international human rights bodies. Auguste also consulted with international organizations and multilateral partners to coordinate government responses to the forced eviction of IDPs (see section 2.d.). She also led the country's diplomatic representation at several international conferences and symposiums on human rights issues.

The constitution provides a seven-year mandate to the OPC, the government's human rights ombudsperson, a post held by Florence Elie, whose term ends in 2016. During the year the OPC took a more active role in investigating allegations of human rights abuse and worked collaboratively with international organizations. The OPC's regional representatives implemented its assistance programs throughout the country. In January the OPC published a report defining its operational mandate, and detailing the scope of its activities and accomplishments between 2009 and 2012. For fiscal year 2013, the OPC had a budget of 31.9 million HTG (\$735,000). OPC Director Elie stated that despite its budget and international donor support, the institution did not possess the necessary funding or physical or human capacity to implement its strategic development and advocacy plan in each of the 10 departments. Human rights advocates and international partners noted that the OPC remained one of the country's most important national institutions responsible for independently monitoring potential human rights abuses, especially in detention centers (see sections 1.c., and 1.d.).

The OPC, but not Minister Delegate Auguste, sometimes conducted investigations into the many allegations of governmental corruption during the year.

The Chamber of Deputies and the Senate each had a human rights committee. Both parliamentary chambers launched investigations into allegations of executive

meddling in the continuing judicial inquiry of corruption by members of the Martelly family (see sections 1.e. and 4).

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

The law does not specifically prohibit discrimination on the grounds of race, gender, language, sexual orientation or gender identity, or social status, but the preamble to the constitution specifically reiterates the importance of adhering to the Universal Declaration of Human Rights, which prohibits all forms of discrimination. Nonetheless, no effective governmental mechanism administered or enforced such provisions.

### **Women**

Rape and Domestic Violence: While the law prohibits rape, it does not recognize spousal rape as a crime. The penalty for rape is a minimum of 10 years of forced labor, increasing to a mandatory 15 years if the survivor was less than 16 years old or if the rapist was a person of authority. In the case of gang rape, the maximum penalty is lifelong forced labor. Actual sentences were often less rigorous, and prosecution frequently was not pursued due to lack of reporting and follow-up on survivors' claims. By June the HNP reported having received 301 complaints of rape and rape-related crimes since the January 2010 earthquake. Suggesting that the actual number of documented rape cases exceeds what police authorities have reported, one prominent women's rights NGO claimed that approximately 600 rape cases had been reported to the HNP and forwarded to the judiciary for prosecution during that same period; of these, however, only five cases had resulted in a conviction or sentencing for the perpetrator. The criminal code excuses a husband who kills his wife or her partner found engaging in an act of adultery in his home, but a wife who kills her husband under similar circumstances is subject to prosecution.

The law similarly does not classify domestic violence against adults as a distinct crime. Women's rights groups and human rights organizations reported that domestic violence against women remained commonplace and underreported. Police rarely arrested the perpetrators or investigated the incidents, and the survivor sometimes suffered further harassment and reprisals from perpetrators. Judges often released suspects arrested for domestic violence and rape.

SGBV was a chronic problem. In August MINUSTAH noted in its Special Representative's Report a "lack of diligence on behalf of police and judicial

authorities in treating [SGBV] cases, leading to a high degree of impunity.” The weakness of the justice system made it difficult for SGBV survivors to find redress, and the fear of reprisals and social stigma attached to being a survivor of SGBV contributed to underreporting.

Human rights groups and lawyers said barriers to reporting rape remained high and included stigmatization, fear of reprisal, and distrust of the judiciary and legal system. They also said there were wide disparities in access to and the quality of medical services from hospitals treating rape survivors. Multiple credible groups said that legal authorities often asked rape survivors inappropriate questions, such as whether the survivor was a virgin before the incident and what clothing the survivor was wearing at the time of the alleged rape. In some cases, authorities advised survivors against pressing charges in order to avoid the public humiliation of a trial. Survivors of rape and other forms of sexual violence faced major obstacles in seeking legal justice, as well as access to protective services such as women’s shelters.

MINUSTAH’s August report on the police and judicial response to rape cases gathered and analyzed data from seven of the country’s 10 departments between January 2012 and March 2013. The data showed that various actors in the criminal justice system inadequately handled the vast majority of rape cases. The report concluded that the state failed in its obligation to conduct investigations and to ensure that rape victims had sufficient access to victims’ services or the judicial system. The barriers to justice for rape survivors included the requirement that women obtain a medical certificate verifying the rape. Justices of the Peace, who statutorily had no jurisdiction to handle this type of crime, also at times attempted to “amicably resolve” rape complaints by negotiating a financial settlement for the victim in exchange for dropping the complaint. The lack of clerical rigor in properly registering rape complaints also contributed to systemic underreporting.

The vast majority of rape survivors never filed a complaint. Those who did choose to file a complaint could do so with the police, the prosecutor’s office, or with a justice of the peace. Survivors could also request the doctor at the medical center call the HNP on their behalf. While the UN report found that 81 percent of women who chose to file a rape complaint did so with the police, very few of those cases that formally entered the judicial system via the police, prosecutor’s office, or the justices of the peace were ever resolved. According to the report: (1) police handled only 47 percent of the cases reported to them; (2) the justices of the peace forwarded to the proper judicial authorities 61 percent of the cases they received from either the police or victims; (3) prosecutors pursued 64 percent of all rape

cases they received; (4) investigating magistrates' chambers only pursued 10 percent of the cases received from victims or prosecutors; and (5) first instance courts only handled 34 percent of the cases they received from the investigating magistrates' chambers. Overall, only a small percentage of complaints filed went to trial. The data suggested that, in practice, fewer than 2 percent of rape complaints made it to the trial phase, and an even smaller percentage resulted in a conviction.

One high-profile cases illustrated weaknesses of the justice system and the stigma faced by rape survivors when reporting SGBV. In late November 2012, 27-year-old Ministry of Interior secretary Marie Danielle Bernadin accused Josue Pierre-Louis – a one-time minister of justice and first president of the electoral council created by President Martelly in August 2012 – of assault and rape. Pierre-Louis denied the allegations, claiming the two were involved in a long-term, consensual relationship. He also filed his own charges against Bernadin, alleging she engaged in “espionage” by accessing files on his cell phone. Bernadin’s family volunteered that associates of Pierre-Louis had offered significant financial and professional inducements in an attempt to persuade her to drop the case. In December 2012 the investigative judge handling the case recused himself, and the media reported he was threatened by Pierre-Louis’ family. While the president eventually removed Pierre-Louis from his position on the electoral council, authorities never prosecuted him because Bernadin eventually dropped her complaint.

Attorneys who represented rape survivors said that authorities were reasonably responsive to cases involving the rape of minors, as the law is clear and judicial measures exist to deal with such cases, which often were accompanied by outrage from local communities. Authorities, however, frequently dropped or did not pursue cases when the offender was also a minor or the survivor was an adult due to the lack of clear legal or administrative structures to deal with such cases. The attorneys claimed authorities often “provisionally released” juvenile offenders in rape cases back to their parents’ recognizance as allowed for in the law.

Through international donor funding and support, the government took significant measures to combat SGBV. Since June 2012 authorities referred over 2,300 SGBV survivors to voluntary counseling and testing for HIV and other sexually transmitted infections, as well as reproductive health and psychological support services. Similarly, health care providers at 30 different facilities were trained to identify and manage GBV cases and provide referrals to social and legal services. In addition, authorities sensitized and surveyed approximately 9,200 persons on SGBV, including 113 medical staff and over 9,000 patients. These developments

were part of a much larger, multi-year public awareness and survey project that specifically targeted SGBV and reached approximately 115,000 persons living in high-risk areas.

Students at the magistrate school – who serve as new judges, prosecutors, and court clerks upon graduation – received training on SGBV and strategies for improved investigation and prosecution of such crimes, victim assistance, and evidentiary procedures. Funding from the international community added a special advisor to the HNP's SGBV Unit to strengthen law enforcement's capacity to prevent and respond to SGBV crimes. International institutions and NGOs also provided training to 40 women from the Jean Marie Vincent IDP camp to serve as mediators in family disputes to mitigate the incidence of domestic violence through dialogue between partners.

Government and international partners also conducted mentoring sessions on SGBV as part of pilot program for chief judges, prosecutors, and justice of the peace courts in Hinche and Mirebalais in order to increase the number of SGBV cases sent to the prosecutors' office for prosecution. Since the project began in 2011, Hinche saw a 75 percent increase in the number of SGBV cases sent to the prosecutors' office (28 by July 2013).

**Sexual Harassment:** The law does not specifically prohibit sexual harassment, although the labor code states that men and women have the same rights and obligations. Data concerning sexual harassment in the workplace were not available, although observers suggested that sexual harassment was common, particularly in factories. Such incidents were unreported because of high unemployment and because survivors had little confidence in the ability of the judicial system to provide protection.

Anecdotal evidence also suggests that sexual harassment and other derogatory treatment was a particular problem for female law enforcement officers, who constituted 10 percent of the HNP. Female police officers interviewed early in the year reported facing challenges their male counterparts did not, including co-worker gossip, more limited access to training, fewer promotion opportunities, and discriminatory administrative policies.

**Reproductive Rights:** Couples and individuals had the legal right to decide the number, spacing, and timing of children and have the information and means to do so free from discrimination. According to the UN Population Fund, the contraceptive prevalence rate for married women or women in union ages 15 to 49

increased from 24.8 percent in 2006 to 31.3 percent in 2012. According to the 2012 Haiti Demographic Health Survey (DHS), approximately 73 percent of women could participate in decisions about their own health care. Despite high levels of general knowledge of contraceptive methods and the government's active engagement in this domain, social, cultural, and legal barriers often impeded women from acquiring additional information on family planning methods and reproductive health care. In the largely conservative society, modern contraception was often socially discouraged. A lack of adequate family planning resources continued to hamper protection of women's reproductive rights. Young, sexually active women found it especially difficult to gain access to family planning services. Governmental family planning services, often located in public health facilities such as hospitals, generally did not have private or confidential screening areas for patients.

The UN Population Fund reported that only 25 percent of all deliveries in 2011 occurred in health institutions or with a skilled attendant present. Most women used "matrons," often experienced but untrained local women, to help them give birth at home or in nonmedical facilities. Health-care professionals attributed this practice to the poor and inconsistent quality of maternity services at hospitals and clinics. According to the DHS, approximately 90 percent of pregnant women went for at least one prenatal visit. While most women in rural provinces chose to deliver at home, many women in urban areas with access to professional delivery services also chose to deliver at home.

UN, World Bank, and local health professional estimates of health trends placed the maternal mortality rate between 300 and 670 per 100,000 live births, although this number could not be confirmed, since authorities conducted no nationwide survey since 2005. A combination of strict laws, unmet family planning needs, lack of medical services, lack of emergency obstetrics, and a high level of unwanted pregnancies contributed to the high maternal mortality rate.

**Discrimination:** Women did not enjoy the same social and economic status as men, despite the constitutional amendments recognizing the principle of "at least 30 percent women's participation in national life and notably in public service," but conditions improved during the year. Increased civil society and government advocacy heightened awareness of the link between women's empowerment and national development.

In some social strata, tradition limited women's roles. The majority of women in rural areas remained in the traditional occupations of farming, marketing, and

domestic labor. Very poor female heads of household in urban areas also often faced limited employment opportunities, working in domestic labor, sales, and as merchants.

International partner institutions and NGOs provided social support mechanisms to various groups, including women. Minister Delegate Auguste used the various social and poverty reduction programs her ministry had responsibility for to help economically empower small business owners and single mothers, and provided opportunities for cultural expression to disadvantaged youth and detainees (see section 5).

While women continued to be underrepresented in supervisory or managerial positions in government and in the private sector, more women held such positions than in previous years. The HNP also saw sustained and significant increases in the number of female recruits and inducted officers. The December 2012 23rd promotion class included 6 percent female cadets, while almost 10 percent of the 24th promotion class (nearly 1,000 cadets), which graduated in November, were women.

Under the law, men and women have equal protections for economic participation. In practice, however, women faced barriers to accessing to economic inputs such as land ownership, reaping of profits from work (particularly agricultural labor), securing collateral for credit, as well as information on lending programs, as well as resources for financial security and growth for themselves, their families, and/or their businesses.

## **Children**

Birth Registration: Citizenship is derived through an individual's parents; only one parent of either sex is necessary to transmit citizenship. Citizenship can also be acquired through a formal request to the Ministry of the Interior. The government did not register all births immediately and did not keep statistics concerning the number of unregistered births each year. Birth registry is free until the age of two, after which it can be difficult and expensive to get a birth certificate, particularly in the provinces.

Birth documents are legally necessary to open bank accounts, apply for credit, gain admission to hospitals, and vote. Individuals who did not possess required birth documents were not denied emergency medical services or educational opportunities on that basis. The 2010 earthquake destroyed many official

documents. As a result, the National Archives saw its requests for certified copies of documents more than triple upon reopening after the earthquake, and the Office of National Identification remained underresourced and overwhelmed by demand.

In August the government launched a program designed to facilitate the registration of births and procurement of national identification cards for citizens in the provinces and rural communities.

Education: Constitutional provisions require the government to provide free and compulsory primary education for all children; however, neither primary nor secondary education was compulsory, free, and universal. The government continued to implement President Martelly's free national education program, which provided primary education for the children of poor families without taking children's previous student status into consideration. According to unofficial reports from the Ministry of Education and Professional Training, during the year approximately 655,000 student beneficiaries were able to attend private schools through the government's program, while 385,994 student beneficiaries were able to attend public schools. The UN Children's Fund and other international bodies contributed millions of dollars to subsidize the cost of schooling. Many families who were not able to get their children into a public school paid for their children to attend private schools, which were generally unaccredited and unregulated.

Child Abuse: The law prohibits domestic violence against minors. The government continued to lack sufficient resources and an adequate legal framework to fully support or enforce existing mechanisms to promote children's rights and welfare but made some progress in institutionalizing protections for children. In September the Chamber of Deputies passed both a comprehensive draft adoptions reform bill as well as a draft law penalizing human trafficking. The president's promulgation of the adoptions reform law remained pending as of November. The Chamber of Deputies submitted a draft anti-trafficking law to the Senate. Additionally, the government continued to station outside the capital more personnel from the Brigade for the Protection of Minors (BPM) and IBESR. The BPM and the IBESR expanded partnership with international organizations and training opportunities for government officials on how to better recognize victims of child abuse and exploitation. Both offices had representatives in each of the 10 departments, as well as a presence at official border crossing points. The IBESR continued its collaborative efforts with local community-based organizations to promote children's rights throughout the country.

While it was recognized nationally that accurate statistics for children working in indentured servitude (referred to as “restaveks”) did not exist, authorities estimated that there were between 250,000 and 500,000 such children, the majority of whom were girls, in the country during the year. Adoptive families often abused restaveks and subjected them to domestic servitude (see section 7.c.). The IBESR continued to work with international and local NGO partners to promote and strengthen community dialogue on the problems and abuses and trafficking associated with the restavek system.

For more information see the Department of State’s *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip) and the Department of Labor’s *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/programs/ocft/tda.htm](http://www.dol.gov/ilab/programs/ocft/tda.htm).

Port-au-Prince’s population of several thousand street children, the majority of whom were boys, included not only many who were dismissed from or fled employers’ homes or abusive families, including situations of domestic servitude, but also some children who lost parents or caretakers in the 2010 earthquake. NGOs reported that street children were likely to be sexually or otherwise abused, received little or no education, and were easily exploited and subjected to forced prostitution by trafficking recruiters. Criminal gangs also reportedly enlisted minors to commit illegal acts. The labor ministry, the minister delegate, and the OPC as well as several NGOs and international organizations provided direct social support services and other assistance to street children and victims of exploitation.

The IBESR has official responsibility both for child protection and for monitoring and accrediting the country’s numerous residential care centers. In partnership with other governmental agencies and international actors operating through the Vulnerable Children’s Working Group (created after the 2010 earthquake), the IBESR made significant effort to expand protections for youth. The IBESR deployed numerous frontline workers and inspectors to bring residential child care centers under its control. In 2012 the institution had identified 724 centers, registered the 16,955 children residing in them, and assessed 468 of the centers.

Forced and Early Marriage: The legal age of marriage is 18. Eighteen percent of women between the ages of 20 and 24 were married by the age of 18, compared with just 3 percent of men. No data were available regarding early and forced marriage, but early marriage was not a widespread custom.

Sexual Exploitation of Children: The minimum age for consensual sex is 18. The law prohibits the corruption of youth under the age of 21 years, including by prostitution, with penalties ranging from six months' to three years' imprisonment for offenders. The draft antitrafficking law, passed by the Chamber of Deputies in September, stipulated that individuals engaging in sexual activity with trafficking victims receive a sentence of one to three years imprisonment and a fine of up to 100,000 HTG (\$2,300). Inefficiencies in reporting and investigating allegations of rape contributed to uncertainties regarding penalties, if any, for statutory rape. Child prostitution was reported in IDP camps as well as on the streets. Recruitment of children for sexual exploitation, pornography, and illicit activities was illegal, but the UN reported that armed gangs recruited children as young as 10 years old for such purposes.

Displaced Children: A large population of displaced children continued to reside in 306 IDP camps and were at risk for exploitation and abuse (see section 2.d.).

Institutionalized Children: Children residing in orphanages and residential care centers were at times at risk of being abused or placed in a situation of forced labor. For more information, see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of Child Abduction.

## **Anti-Semitism**

The Jewish community numbered fewer than 100, and there were no reports of anti-Semitic acts.

## **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

## **Persons with Disabilities**

The 2010 earthquake substantially increased the size of the community of persons with disabilities and focused international attention on the need to bolster support mechanisms for this group. Because of widespread and chronic poverty, a shortage of public services, and limited educational opportunities, persons with

disabilities remained disadvantaged. Additionally, individuals with disabilities faced significant social stigma because of their condition. As a group, people with mental or developmental disabilities were consistently marginalized, neglected, and abused in society. While information about the number of persons with disabilities was scarce at the national level, the Office of the Secretary of State for the Integration of Handicapped Persons (BSEIPH), which falls under the labor ministry, estimated that 10 percent of citizens had disabilities. International and local NGOs continued to provide most direct services to persons with disabilities. Access to quality medical care posed a significant challenge for persons with disabilities. Hospitals and clinics in Port-au-Prince did not have sufficient space, human resources, or public funds to treat such individuals. Where facilities existed to treat and rehabilitate them, the conditions were below international standards.

In spite of these challenges, the government continued to develop a legal framework for the protection and social integration of persons with disabilities. The 1987 constitution stipulates for persons with disabilities the means to provide for their autonomy, education, and independence. The country is also a party to the UN and Inter-American conventions on rights for persons with disabilities. A 2012 law provides a legal mandate for BSEIPH's work, prohibits any discrimination in employment practices against persons with disabilities, requires the government to integrate such persons into the state's public services, and imposes a 2 percent quota for persons with disabilities in the workforces of private sector companies. There was no information available on the extent of government enforcement of these legal protection mechanisms. Government officials also took steps to include protections for persons with disabilities to vote.

The BSEIPH is the lead government agency responsible for providing assistance to persons with disabilities and ensuring their civil, political, and social inclusion. During the year BSEIPH prioritized five areas for engagement: 1) reinforcing the office's – and local disabled people's organizations advocacy NGOs' – institutional capacity; 2) increasing opportunities for educational access and professional training for persons with disabilities; 3) expanding access to social support, employment, and entrepreneurship for persons with disabilities; 4) rendering government buildings more accessible; and 5) reinforcing the country's legislative and judicial framework for persons with disabilities.

The BSEIPH opened several departmental offices outside the capital, and continued to refine a strategic development plan to guide the institution's efforts. The BSEIPH also offered scholarships and grants to students with disabilities, and initiated a program to help fund the study of disabilities-related issues at the

Haitian State University. In partnership with international donors, BSEIPH also launched a project to renovate seven schools and universities in Jacmel, Hinche, Les Cayes, Port-au-Prince, Mirebalais, and other areas to render them more accessible for persons with disabilities. The government continued to hold public awareness campaigns to change the societal norms of weakness associated with being physically or mentally disabled.

The government took several steps to continue strengthening and expanding local understanding of the existing legal framework for its citizens with disabilities. Following up on the recent publishing of the state's anti-discrimination law for persons with disabilities, the BSEIPH translated and disseminated the 2012 law in Creole and Braille, and similarly disseminated French and Creole-language audio versions of the law. With international and local partners, the government also conducted training sessions to educate 411 judges and other public servants on the key elements of the 2012 anti-discrimination law. Prime Minister Lamothe pressed public officials to apply the 2012 law's provisions requiring the hiring of persons with disabilities in public administration and other government agencies, though it is unclear what effect this advocacy had in enforcing that law's quota.

State Secretary Oriol also took steps to ensure that existing efforts to craft or reform legislation took into account the needs of persons with disabilities. His office provided technical assistance to governmental efforts to reform the labor code, domestic adoptions framework, and building code (in partnership with representatives from the labor ministry, IBESR, and the Ministry of Public Works, Transport, and Communications). Similarly, the BSEIPH worked with international NGO Handicap International and the Ministry of Public Health to develop standardized training protocols for the country's physical therapists and other health practitioners.

Following a 2012 high-level government-private sector business forum designed to push private industry to embrace hiring disabled persons, the government, with support from NGOs and international donors, held the country's first job fair for persons with disabilities in September. The event provided persons with disabilities searching for employment with the opportunity to establish relationships with businesses that positively responded to the government's call for increased engagement.

### **Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity**

There were no laws criminalizing sexual orientation or consensual same-sex conduct between adults, nor were there any reports of police officers actively perpetrating or condoning violence against the LGBT community. There were, however, reports that in several instances judiciary officials denied LGBT persons access to justice because of their sexual orientation. In June an LGBT person, who claimed to have been the victim of verbal and physical assault in Croix-des-Bouquets, forwarded a complaint to the regional justice of the peace, who in turn issued an arrest warrant for the alleged perpetrator. When asked to explain his actions before the judge, the suspect claimed that the victim had molested him during his sleep. Using derogatory epithets, the judge summarily threw out the victim's case.

There were no antipropaganda laws or laws criminalizing the changing of one's gender or sex; however, local attitudes remained hostile to outward LGBT identification and expression, particularly in Port-au-Prince. In response to increased advocacy and activism by LGBT and other human rights groups during the year, LGBT persons experienced a higher degree of hostility from more conservative or traditional segments of society, including government officials, than in previous years. Religious and other conservative organizations actively opposed the social integration of LGBT persons and discussion of their human and civil rights. Parliamentarians publicly noted that they would not and should not consider any type of LGBT rights legislation, particularly one calling for marriage equality.

There were no antidiscrimination laws that protected LGBT persons and minority groups. In addition, traditional mistrust of law enforcement and judiciary officials, along with a historically low rate of successful prosecution of SGBV and related crimes, hindered LGBT advocates and community members from successfully cooperating to reduce the violence and discrimination experienced by the group. Human rights advocates claimed that in the greater Port-au-Prince area, HNP authorities were only willing to register the claims of LGBT victims at the commissariats in Petionville, Kenscoff, and Canape Vert. HNP officials working at the commissariats in Martissant, Carrefour, Pompier, Port-au-Prince, Cafeteria/Marche en Fer, Cite Soleil, Grand Ravine, Tabarre, Lapeine, Lilavois, and Croix des Bouquets were reportedly generally unhelpful and unwilling to document or investigate LGBT persons' claims of abuse, according to civil society activists and the leaders of women's groups.

LGBT advocacy groups in the capital reported a greater sense of insecurity and less trust of government authorities than did groups in rural areas. In the face of

visibly increased intimidation against the LGBT community during the year, police and government officials responded with calls for tolerance, understanding, and dialogue. Several local NGOs and international organizations provided direct support to LGBT persons who alleged discrimination due to their sexual orientation or gender identity or being victims of SGBV.

LGBT advocacy and human rights groups, as well as international organizations, confirmed that LGBT persons consistently experienced great difficulty in formally registering complaints of abuse and discrimination with government authorities. Reporting of rape and sexual assault remained low across all demographics of the LGBT community, though advocates and international partner institutions insisted that the incidence of such abuse remained high and was increasing throughout the year. Women's victims organization KOFAVIV claimed that since the 2010 earthquake, few cases of rape and other forms of SGBV perpetrated against women, children, and LGBT persons rarely yielded both arrests and convictions of the perpetrators.

In opposition to growing local LGBT advocacy and developments in international LGBT movements, the Haitian Coalition of Religious and Moral Organizations (HCRMO) led an anti-gay march and rally in downtown Port-au-Prince in July. Over 1,000 persons participated. While the march and rally were deemed generally peaceful by outside observers, journalists and others noted its threatening and stigmatizing overtones, as well as the potential for incitement to violence. Witnesses observed numerous rally participants of all ages describing LGBT individuals as "masisi," a derogatory term for a gay man, and calling for their death by burning and beating.

Following the July rally, LGBT organizations reported a nationwide increase in anti-LGBT societal attitudes. Local human rights groups and LGBT advocacy organizations recorded an estimated 70 incidents. Victims reported only a few of these cases of abuse to authorities out of fear of reprisal from family and community members if victims' sexual orientation were to become known. One confirmed incident was a mob attack against a private Port-au-Prince residence during an engagement party for two men. In this instance, the HNP responded and escorted guests to safety.

In response to confirmed and unconfirmed reports of violence and intimidation against LGBT persons, the Ministry of Justice and the minister delegate, along with the OPC, issued strong statements condemning violence and calling for tolerance. Leaders from the Protestant Federation also condemned the reported

violence and incitement to violence, and noted that before the July rally they had advised the HCRMO organizers of the need to adopt a peaceful approach. They also noted that after the rally they disseminated a note to the leaders of the federation's major church organizations stressing the need to oppose hate speech and violence.

In August a mob threatened three gay men and forced them out of a house in Port-au-Prince, and subsequently burned the dwelling. A group of local residents surrounded the property and stoned the three men while they exited the home. After retreating indoors, the mob set the house on fire and the men were again forced to exit and flee. The men safely escaped and sought shelter at a safe house. According to the advocacy group Kouraj, police responded to the crime scene. The victims filed a formal report with the HNP; however, attempts to pursue justice further in the legal system stalled (see section 1.e.).

Also in August OPC Elie released a statement decrying the wave of anti-LGBT sentiment, calling for the respect of LGBT persons' right to equality and freedom from persecution, stigmatization, or discrimination for personal choices. The OPC also called upon police and judicial authorities to take action against perpetrators of violence.

In July and August, effective action by civil society and local government prevented additional planned anti-gay rallies from resulting in violence and intimidation against LGBT persons. In Jacmel dialogue between rally organizers and civil society resulted in a peaceful event, whereas in Les Cayes a planned rally did not receive a permit after the HNP determined that its personnel strength was insufficient to guarantee security.

### **Other Societal Violence or Discrimination**

There were several allegations of forced relocations by both private citizens and the government of squatter communities (see section 2.d.).

According to MINUSTAH reports, vigilante reprisals remained a common practice, especially in rural areas outside the capital. Limited or nonexistent presence of law enforcement and judicial authorities meant that in practice it carried few or no legal repercussions. Through June the HNP recorded 63 cases of lynching, compared with 106 cases reported in all of 2012. Citizens often retaliated against police officers, particularly after incidents in which police officers attempted to quell mob violence.

## Section 7. Worker Rights

### a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right of some workers, excluding public sector employees, to form and join unions of their choice and strike (with restrictions). Although the law allows for collective bargaining, it does not require employers to meet or negotiate with unions. The law prohibits firing workers based on union activities, and employers are subject to a monetary fine for each individual violation. The law does not, however, require employers to reinstate workers illegally fired for union activity, although illegally fired workers have the right to recoup any compensation to which they are entitled.

The law places several restrictions on these rights. For instance, it requires that any union obtain prior authorization from the government in order to be recognized. The law limits legal strikes to four types: striking while remaining at post, striking without abandoning the institution, walking out and abandoning the institution, and striking in solidarity with another strike. Public utility service workers and public sector enterprise workers may not strike. The law defines public utility service employees as essential workers who “cannot suspend their activities without causing serious harm to public health and security.” A 48-hour notice period is compulsory for all strikes, and strikes may not exceed one day.

The law does not cover freelance workers or workers in the informal economy, and in practice does not cover the vast majority of workers nationwide, including agricultural workers, civil servants, miners, and domestic workers.

The government made efforts to enforce labor laws. During the year the labor ministry recognized 17 new unions. Government officials, unions, and factory-level affiliates also continued to expand their dialogue. Labor courts, which function under the supervision of the ministry, are responsible for adjudicating private sector workplace conflicts. There was one labor court in Port-au-Prince. In the provinces, plaintiffs had the legal option to use municipal courts for labor disputes. During the year, the Port-au-Prince labor court ruled in favor of 51 workers who had been wrongfully dismissed in 2010 because of protected union activity and required the employer to pay 1,322,000 HTG (\$30,460) in damages to the workers.

The law requires ministry mediation before filing cases with the labor court. During the year, the HOPE Commission's Labor Ombudsperson for the textile sector and the ministry provided mediation services to workers and employers in Port-au-Prince, Caracol, and Ouanaminthe. Due to the judiciary's limited capacity, the mediation services of the Textile Sector Labor Ombudsperson and the ministry were often the only official recourse for workers' grievances. In Port-au-Prince, where the labor court does exist, ministry mediation could be an extra step that would unnecessarily prolong the conflict resolution process to the employee's disadvantage. The Ombudsperson mediated 46 disputes between workers and management in textile factories during the year. Through October, the Ombudsperson negotiated the reinstatement of 110 workers who employers dismissed for union activity in four Port-au-Prince factories.

During the year, in one case mediated by the Textile Sector Labor Ombudsperson, 146 workers received monetary compensation for wrongful dismissal following a May 2011 work stoppage and demonstration. Management of the factory had placed the fired workers on a "blacklist" and circulated it to multiple other factories. In May the employer signed an agreement with the dismissed workers, their legal representative, and the Ombudsperson, and paid each worker with more than three years' experience at the time of dismissal 7,500 HTG (\$173) and each less experienced worker 5,000 HTG (\$115). The employer agreed to rehire 101 of the 146 workers, claiming that it rightfully dismissed 45 workers.

The penalty under the law for interference with union activities is 1,000 to 3,000 HTG (\$23 to \$69). The fines were not high enough to deter violations, and authorities did not impose or collect them. During the year the government required some factories to remedy labor violations, including related to freedom of association. One apparel factory offered reinstatement to 54 workers who dismissed in late 2011 after they had begun organizing a group to discuss and address their terms and conditions of employment and had collectively expressed these concerns to management. The labor court was in the process of deliberating a final order for compensation by the employer to 51 workers that will include both benefits and bonuses.

Antiunion discrimination persisted. Workers reported acts of suspension, termination, and other retaliation by employers on the grounds of legitimate trade union activities, membership, collective action, and other associational activity. The textile sector was increasingly unionized; there were 17 unions registered in the sector in the year, up from 11 in 2012 and two in 2011. High unemployment

and antiunion sentiment among some factory workers and employers were obstacles to union organizing efforts.

Workers exercised the right to strike in practice. Workers in many of the country's manufacturing plants organized strikes in protest over production-based wages and transportation. Despite the prohibition on public sector strikes, there were several demonstrations during the year, including teachers' demonstrations.

The April and October reports of the International Labor Organization and International Finance Corporation's Better Work program noted reports of employer interference in union activity in the apparel industry. For instance, in one case, management employees allegedly attempted to manipulate the union by submitting a written request to the ministry to dissolve the union. The employer later implemented internal policies to prohibit management interference in protected union activities. In another factory, the employer gave disciplinary warnings to trade union representatives based on factually unsupported grounds not included in the internal work rules. Similar warnings were not observed for other workers.

### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor; however, the government did not effectively enforce the law in all sectors of the economy. In the textile industry, the ministry and the Labor Ombudsman made efforts to address intimidation and employer abuse and worked with factory owners to ensure that working hours complied with national labor law. In the case of one factory found non-compliant in regards to forced labor, MAST conducted several inspections, and issued several letters to the company requesting full remediation. Penalties for violations of forced labor laws ranged from 1,000 to 3,000 HTG (\$23 to \$69), but were insufficient to deter violations.

There were reports that forced or compulsory labor occurred, specifically, instances of forced labor among child domestics, or restaveks (see section 7.c). In the apparel sector, there were reports of several practices that, when taken together, were inconsistent with international standards on forced labor. These practices included: requiring workers to work overtime in excess of the legal limit; threatening them with dismissal or suspension if they refused to do so; and physically preventing workers from freely leaving the facility by posting armed guards at the exit, locking gates so workers could not leave without the assistance of guards, and frequently denying exit passes required for leaving the facility.

Workers in one apparel factory were compelled to work more than the legal limit for overtime, and reported they were not permitted to leave their workstations if they did not reach their production quota. Management reported taking some steps to remedy the issues related to forced labor, including by allowing workers to leave the facility freely. However, at year's end, there were ongoing concerns related to forced labor at the factory.

Also, see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The minimum age for employment in industrial, agricultural, or commercial companies is 15. The minimum age for apprenticeships is 14. The law prohibits young persons and children from performing any work that is likely to be hazardous, interferes with their education, or is harmful to their physical, mental, spiritual, moral, or social health and development, including the use of children in criminal activities. The law also prohibits minors from working under dangerous or hazardous conditions, such as mining, construction, or sanitation services, and prohibits night work in industrial enterprises for minors under 18.

There is no minimum age restriction for work in domestic service, and there are no legal penalties for employing children in domestic labor unless the nature or condition of domestic service harms their health, safety, or moral development. The law requires employers to pay domestic workers over the age of 15, thereby allowing employers of domestic workers to use "food and shelter" as a means of unregulated compensation for those under 15. Although the law stipulates free and compulsory primary education for all children, children are required to attend school only for six years, making children, who are 12 to 14 and are not required to attend school but also are not legally allowed to work, particularly vulnerable to illicit child labor, including the worst forms of child labor.

Young people between the ages of 15 and 18 seeking employment must obtain a work authorization from the labor ministry unless they are employed in domestic service. Companies that employ minors without work authorization risk being fined between 3,000 and 5,000 HTG (\$69 to \$115).

The law prohibits servitude, forced or compulsory labor and the use of children in criminal activities or armed conflict. The law also criminalizes child trafficking

and the recruitment of children for sexual exploitation, such as pornography, and for illicit activities. There are no penalties assessed for breaking the law.

The labor ministry, through the IBESR, is responsible for enforcing child labor laws. While enduring resource constraints hindered the IBESR's ability to conduct effective child labor investigations, the IBESR and the HNP's BPM responded to reports of abuse in homes and orphanages where children work. The government does not report statistics on investigations into child labor law violations or the penalties imposed. Although the government and international donors allocated supplemental funds for the IBESR to acquire a new administrative space and to hire more staff, the IBESR continued to lack sufficient social protection programs and effective legislation to eliminate the worst forms of child labor. The ministry directed law enforcement resources to rescue trafficked children working in the informal economy.

The interministerial committee that included civil society actors, unions, and employers to address the issue of child labor continued to meet throughout the year on an informal basis to discuss the challenges associated with implementing existing laws on child labor.

The BPM is responsible for investigating crimes against children. The BPM referred exploited and abused children to the IBESR and partner NGOs for social services. Although the BPM has the authority to respond to allegations of abuse and apprehend persons reported as exploiters of child domestic workers, the BPM did not pursue restavek cases for investigation because there were no legal penalties it could impose on those who exploited children in this manner.

Children under the age of 15 commonly worked in the informal sector to supplement family income. Activities and sectors in which children worked included domestic work, subsistence agriculture, and street trades, such as selling goods, washing cars, serving as porters in public markets and bus stations, and begging. Children also worked with parents on small family farms, although the high unemployment rate among adults kept significant numbers of children from employment on commercial farms.

The worst forms of child labor, including forced child labor, continued to be problematic and endemic – particularly in domestic service. A May 2012 an IOM survey estimated that 250,000 to 500,000 children were employed in domestic work as restaveks. An estimated 225,000 children worked as restaveks in urban areas of the country. Most restaveks were girls between the ages of five and 17.

Exploitation of restaveks typically included families forcing them to work excessive hours on physically demanding tasks without commensurate pay or adequate food, refusing to provide an education, and subjecting them to physical or sexual abuse. Girls were often placed in domestic servitude in private urban homes by parents who were unable to provide for them, while boys more frequently were exploited for labor on farms. Restaveks who did not run away from families usually remained with them until age 14. Many families forced restaveks to leave before age 15 to avoid paying them wages as required by law. Others ignored the law, often with impunity.

Working on the streets exposed children to a variety of hazards, including severe weather, vehicle accidents, and crime. Abandoned and runaway restaveks constituted a significant proportion of the population of children living on the street, many of whom criminal gangs forced into prostitution or street crime, while others became street vendors or beggars.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/programs/ocft/tda.htm](http://www.dol.gov/ilab/programs/ocft/tda.htm).

#### **d. Acceptable Conditions of Work**

The minimum daily wage for re-exporting industrial companies is 200 HTG (\$4.60). At the same time, the minimum wage law also stipulates that production quotas in re-exporting factories must be set in a manner that permits workers to earn at least 300 HTG (\$6.90) for an eight-hour workday. For all other industrial and commercial work, the daily minimum wage was fixed at 200 HTG (\$4.60) for eight hours of work. In August, the government formed a tripartite, nine-member Superior Wage Council tasked with evaluating the minimum wage and proposing resolutions and recommendations on issues regarding the minimum wage. In July the Center for American Progress and the Worker Rights Consortium (WRC) issued a report which noted that real wages of garment workers rose by 48.2 percent during the period 2001 to 2011. The report attributed the significant growth in real wages to the substantial increase in the minimum wage over the time period. At the same time, however, the report also noted that 42 years of further growth at the same rates would be needed before workers reached a living wage. Approximately 80 percent of the population lives under the poverty line of 86 HTG (\$2) per day.

The law sets the standard workday for industrial, commercial, and agricultural establishments at eight hours and the workweek at 48 hours, with 24 hours of rest

and paid annual holidays. It also requires payment of overtime, prohibits excessive compulsory overtime, and sets the maximum number of overtime hours allowed at 80 per trimester. The law does grant exemptions to health care, lodging, food and beverage, and entertainment establishments; managerial positions; and family establishments that employ only family members. The Labor Directorate may grant exemptions for other employers not specifically exempted by the law. The law is silent with respect to prohibiting overtime for public sector employees, and it is similarly vague about domestic workers' rights regarding working hours, salary, vacation, and severance. The law establishes minimum health and safety regulations.

Although the law charges the ministry with enforcement of a range of labor-related issues, legislation on wage and hour requirements, standard workweek, premium pay for overtime, and occupational safety and health were not effectively enforced. Penalties were not sufficient to deter violations, and authorities often did not impose them. The penalty for not applying the occupational safety and health provisions of the labor code is 200 to 2,000 HTG (\$4.60 to \$46) or up to three months in prison. The penalty for violating the minimum wage or hours of work provisions of the labor code is from 1,000 to 3,000 HTG (\$23 to \$69).

The ministry's capacity to enforce the labor provisions in national and international law was limited by human resource and other constraints. There were 100 labor inspectors, of whom 20 were technicians trained as labor inspectors. During the year the ministry proceeded with 574 inspections in assembly factories in the Port-au-Prince metropolitan area, Caracol, and Ouanaminthe. Labor inspections in the capital and elsewhere faced challenges including a lack of funding, questionable professionalism, and support from law enforcement.

Different interpretations of the minimum wage law and the absence of a clear interpretation of the criteria for the piece-rate production wage were significant challenges to ensuring compliance in the sector. The October ILO Better Work report found that, of the 23 textile factories assessed, none was fully compliant with the piece rate requirement in the minimum wage law. The ILO Better Work report defined "fully compliant" as at least 90 percent of experienced workers earning at least 300 HTG (\$6.90) per day during regular working hours. All 23 textile factories assessed in the October report, however, paid at least a base wage rate of 200 HTG (\$4.60). In October, the WRC also released a report on working conditions in the apparel sector. WRC reported that garment sector workers in Port-au-Prince were denied 32 percent of the wages they were legally due, while Caracol workers were paid 34 percent less than required by law. WRC attributed

these problems to frequent payroll errors, unattainable production quotas, and non-compliance with overtime regulations, including frequent off-the-clock work to meet production quotas.

Most citizens worked in the informal sector and subsistence agriculture, for which minimum wage legislation does not apply, and where daily wages of 20 to 30 HTG (\$0.46 to \$0.69) were common. Many women worked in domestic service, which was also exempted from minimum wage legislation.

There continued to be reports of noncompliance regarding compensation, paid leave, social security and other benefits, contracts, health services and first aid, and worker protection in the industrial and assembly sectors. Although overall compliance remained low, several improvements were noted during the year including in compliance efforts for employment contracts, granting required for weekly rest days, maternity leave and annual leave, and paying social security payments and forwarding worker contributions.

No group collected formal data, but unions alleged job-related injuries occurred frequently in the construction and public works sectors.